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IN THE

Supreme Court

OF THE

United States

OCTOBER TERM, 1942

No. 72

MINA L. COWAN,

Petitioner,

vs.

FALLBROOK PUBLIC UTILITY DISTRICT, a Public Corporation,

Respondent.

REPLY BRIEF OF RESPONDENT IN ANSWER TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

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FALLBROOK PUBLIC UTILITY DISTRICT, a Public Corporation,

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REPLY BRIEF OF RESPONDENT IN ANSWER TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

To the Honorable Supreme Court of the United States:

The respondent, the Fallbrook Public Utility District, a Public Corporation of the State of California, in answer to the petition for writ of certiorari heretofore filed by the petitioner, respectfully presents, for consideration, the following brief:

REASONS FOR DENYING PETITION FOR WRIT OF CERTIORARI.

The respondent respectfully asks this Honorable Court to deny the petition for the writ of certiorari for the following reasons:

I

The question presented to the Circuit Court of Appeals for the Ninth Circuit, and denied by such Court on December 20, 1942, has now become moot.

II.

There are no special and important reasons justifying the exercise of the jurisdictional discretion of this Honorable Court to review the questions presented by the petitioner.

III.

The decision of the Circuit Court of Appeals, sought to be reviewed, correctly determines the law of the case.

SUMMARY OF ARGUMENT.

I.

The issue sought to be determined by the petitioner in this matter has now become moot because, by action of the United States District Court for the Southern District of California, Central Division, in Bankruptcy, the lands, which were the subject of controversy in the Courts below, were, on January 12, 1943, dismissed from the bankruptcy proceedings and no appeal was taken from such decision within thirty days prescribed by Sections 47 and 48 of Title 11 of U. S. Code Ann., which authorizes an appeal from any final order in a proceeding in bankruptcy.

II.

There are no special or important reasons for issuing a writ of certiorari in this case. The question decided by the Circuit Court of Appeals was whether or not the petitioner

had a property interest in the real property involved which gave the bankruptcy courts jurisdiction over such property. The Circuit Court of Appeals decided that no such interest was held by the petitioner at the time of the filing of the petition in bankruptcy, and such decision of the Circuit Court of Appeals was decided in accordance with the law of the State of California as to property rights. No Federal question was determined; the decision of the Circuit Court of Appeals was not in conflict with other decisions of the Circuit Court of Appeals on the same matter; no question of local law was decided which could probably conflict with any other applicable local decision and the Circuit Court of Appeals did not, in any way, depart from the accepted and usual course of judicial proceedings and did not, of course, sanction any departure by the United States District Court in such manner as to call for an exercise of the Supreme Court's power of supervision.

III.

The decision of the Circuit Court of Appeals was correct in law because—

1. The petitioner had no property right in the land at the time of the filing of her petition in bankruptcy. Her right to redeem her property from the Irrigation District's sale for the nonpayment of delinquent taxes levied by the Irrigation District expired at the end of three years under the Irrigation District laws of California, and the Fallbrook Public Utility District did not grant to such petitioner any extension of the right of redemption. The interest of the petitioner in the land involved was thus divested, and title

to such land transferred to the respondent. Such transfer, of course, was made subject to any existing liens held by the State of California and County of San Diego by virtue of nonpayment of delinquent taxes levied by such public agencies on such land. There was no question of priority of tax liens, or parity of tax liens involved in such case, and, by the sale of the property by the Irrigation District tax proceedings to the respondent herein, the right to redeem from State and County tax liens passed from the petitioner to the respondent, and thereafter such right to redeem existed only in the respondent, and not in the petitioner. There was, therefore, no reason for determining, by the law of California, priorities between the two tax liens.

2. Under the state law of California, providing for the sale of lands by Irrigation Districts for the nonpayment of Irrigation District taxes at the end of three year period of redemption, the Irrigation District, or where the Irrigation District has been legally dissolved prior thereto, in such case the County Treasurer, may issue a deed to the purchaser or holder of the tax lien which deed vests title in the purchaser or holder of the tax lien and cuts off forever the interest of the former property owner, who allowed his property to go delinquent for the nonpayment of taxes. Such state law provides that the grantee of such deed becomes the absolute owner of the property so conveyed. There are no California cases holding contrary, but all of them hold such rule of law.

3. The Circuit Court of Appeals did not decide any question as to whether or not the right of a property owner to redeem from tax sales was not a valuable property right.

That question was conceded under the law of California. The real question decided was whether or not the bankrupt petitioner had not lost her right of redemption prior to the institution of the bankruptcy proceedings.

4. In bankruptcy proceedings, under the bankruptcy law of 1928, the Federal Courts have full and complete authority to decide property rights, except that such decisions must be made in accordance with the law of the state in which the property is situated.

5. The defenses which petitioner claims could be urged in the State Court, if this proceeding had been referred to the State Court, were all urged in the United States District Court and the Circuit Court of Appeals, and each one of them was considered adversely to petitioner. The decision of the Circuit Court of Appeals was correct as to these three defenses because such decision was determined on the findings of fact approved by the District Court; the defenses urged by petitioner were barred by conclusive judgment rendered in the State Court as to the legality of the Irrigation District assessment proceedings; the defenses claimed were barred by California statute of limitations; and finally the question of adequacy of consideration in tax irrigation district proceedings has been decided by the Supreme Court of the United States.

ARGUMENT.

I.

The question sought to be presented to the Supreme Court of the United States in this petition for writ of certiorari has become moot. As stated by petitioner on

page 2 of her petition and brief, no stay of mandate of the final decision of the Circuit Court of Appeals was applied for or granted. On January 12, 1943 on motion of the respondent, an order was entered in the District Court of the United States for the Southern District of California, Central Division, in the case of "In the Matter of Mina L. Cowan, Debtor, No. 35978-C Bkcy," dismissing the bankruptcy proceeding with respect to the lands formerly belonging to the petitioner, and setting aside the restraining order preventing the Fallbrook Public Utility District from selling such lands. This was a final order in a bankruptcy proceeding. No appeal was taken therefrom; hence the Federal Courts have lost jurisdiction over this particular land in such bankruptcy proceeding. The question, therefore, presented to the Supreme Court of the United States is moot and should not, therefore, be decided. (Copy of this final order in bankruptcy is printed in the appendix to this brief on page 12)

Mills vs. Green 159 U. S. 651, 40 Lawyers Ed. 293.

II.

No one is entitled to a writ of certiorari as a matter of right. The granting of a petition for such writ rests in the sound judicial discretion of the Supreme Court, and such writ will be granted only where there are special and important reasons therefor. The respondent respectfully presents that there are no special and important reasons why the Supreme Court should review the decision of the Circuit Court of Appeals in this case. The real issue in the court below was whether or not this petitioner had an interest

in the property, which she had scheduled in the bankruptcy proceedings as belonging to her, which gave to the bankruptcy court jurisdiction over such property. (R. 172 and 175.)

Whether or not the bankrupt petitioner had a legal interest in such property at the time of the institution of the bankruptcy proceedings depended upon the law of the State of California.

Hoyd vs. Citizens Bank of Albany (CCA Ohio 1937), 89 Federal (2d) 105;

U. S. National Bank of Omaha vs. Pamp (CCA Neb. 1936), 83 Federal (2d) 493.

If petitioner had no property interest under the law of California in this property the bankruptcy court had no jurisdiction over the same. That was the sole question before the lower courts. Such a question does not come within the category of the reasons described in the rules of the Supreme Court for the issuance of writs of certiorari. For example, the issue presented in the court below does not involve (a) a Federal question, (b) a decision of the Circuit Court of Appeals which is in conflict with another decision of another Circuit Court of Appeals, or a decided and important question of local law, probably in conflict with local decisions, or a decided and important question of general law, probably untenable or in conflict with the weight of authority, or a decided question of Federal law, or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by the

District Court, as to call for an exercise of the power of supervision of the Supreme Court.

Rules of Supreme Court, No. 38, paragraph 5.

Of course, we appreciate that the Supreme Court is not necessarily controlled by the character of reasons set forth in its rules for the granting of writs of certiorari, but that it may grant such writ in the exercise of its discretion if it feels that the interests of justice demand that it do so, but we think it important to urge that the present case is not one which justifies the review because the question decided by the Circuit Court of Appeals was purely one of a local property rule which could not possibly be of interest to anyone in the United States except this petitioner. The question of whether or not she had lost the right to redeem her property from a tax sale, or whether or not such right of redemption had been revived or extended, could not possibly be of interest nationally or to the citizens and property owners of the other forty-seven states of the United States.

III.

1. The decision of the Circuit Court of Appeals was correct in law. In support of this conclusion we will answer the contentions of the petitioner commencing on Page 7 of her brief. The first of these (1a and b) is the argument that the petitioner had a property right in the property involved consisting of: (a) the right to redeem from the sale made by the County Treasurer to the respondent Utility District, and (b) from the sales theretofore made for the nonpay-

ment of State and County delinquent taxes. We answer this point as follows:

The respondent Utility District obtained title to this property by virtue of the granting of a deed by the County Treasurer of the County of San Diego to the Utility District. This deed was issued pursuant to the provisions of Section 47½ of the California Irrigation District Act (Appendix, Page 10) (R., Page 111) on November 9, 1939, more than four months before the institution of the bankruptcy proceedings.

The Fallbrook Irrigation District had been a public corporation, organized and existing many years prior to the year 1933 under the California statutes of 1897, Page 254, (Deering General Laws, Act 3854, Page 1792).

This Irrigation District was legally dissolved in 1938, pursuant to the terms and provisions of the California Irrigation District Dissolution Statute (California Statutes 1903, Page 3) (Appendix, Pages 5 to 8).

The respondent was at that time, and now is, a public corporation, organized under the California Statutes of 1913, Page 450.

A contract had been entered into by the former Irrigation District with the Fallbrook Public Utility District providing that, in the event of dissolution of the Irrigation District, all of its property and assets were to be transferred to the Utility District as a part of the plan of dissolution of said Irrigation District.

Among the assets to be transferred under this contract were certain certificates of sale owned by the Irrigation District for the nonpayment of delinquent taxes levied by

such District on the properties involved in this litigation (R., Pages 168, 169).

The statute authorizing the dissolution of this Irrigation District provided for the institution of a proceeding in the State Court of California in which, not only the legality of the dissolution proceedings was to be passed upon, but the Court was also given jurisdiction to pass upon the validity of all tax proceedings leading up to the issuance of certificates of sale, and the validity of the plan of dissolution, which included the contract between the Irrigation District and the Fallbrook Public Utility District (Sec. 4 California Irrigation District Dissolution Act, Pages 7, 8, Appendix).

This proceeding was had in the Superior Court of the County of San Diego and resulted in a decree in which the Court approved the dissolution proceedings, the plan including the contract between the Irrigation District and Utility District, and the validity of the tax proceedings of the Irrigation District leading up to the issuance of the certificates of sale. This decree further authorized the transfer of such certificates of sale to the Utility District, and authorized the County Treasurer of San Diego County to issue deeds to the Utility District upon demand, in the event that the property described in the certificates of sale was not redeemed within the period of three years allowed by the California Irrigation District Act (R., Pages 99 to 110).

The redemption right given by this California Irrigation District Act and the decree of the State Court was not exercised by the petitioner within the three years allowed and the Utility District obtained deeds from the County

Treasurer in accordance with that decree. These deeds were issued more than four months before the bankrupt petitioner instituted her bankruptcy proceedings. (R., Page 169).

On March 12, 1940 the Secretary of the Utility District dispatched a letter to H. Cowan, the debtor's husband, in which it was stated that the Utility Board of Directors had set March 22, 1940, as the date the real property, which is involved in this controversy, would be offered for sale if not redeemed therefor. (R., Page 170.)

The petitioner herein claims that this letter of March 12, 1940 extended and revived the right of redemption given by the California Irrigation District Act, and as the petitioner had filed her application, under Section 75s of the Bankruptcy Act (11 U. S. C. A. 203(s)), on March 20, 1940, there still remained two days in which she had the right to exercise the right of redemption allowed by the Board of Directors of the Utility District.

Petitioner claims that this right was a property right covered by the bankruptcy laws and, therefore, the Bankruptcy Court had jurisdiction over this property.

The Circuit Court of Appeals held that, under the California Irrigation District Act, the right of redemption expired three years after the issuance of the certificates of sale and that, because the debtor petitioner had not exercised this right of redemption within such three years, title to the property had passed, by virtue of the County Treasurer's deeds, to the Utility District, on November 9, 1939, and that this letter from the Utility District Secretary to the petitioner's husband did not revive or extend the right

of redemption. The Circuit Court of Appeals held that, at the most, this letter was simply an option which, not having been exercised within the time provided by the option, did not give to the debtor any property rights which were subject to the bankruptcy laws of the United States (R., Page 174).

We believe that the decision of the Circuit Court of Appeals is correct, first, because, the right of redemption having expired, it could not be revived or extended by any act of the Utility District. See

County of Los Angeles vs. Rochhold, 3 Cal. (2d) 192;

Angelo California National Bank vs. Leland, 9 Cal. (2d) 347.

That the letter was simply an option and did not give any right in property see

Hicks vs. Christianson, 174 Cal., 712, 164 Pac., 395;

Ware vs. Quigley, 176 Cal., 694, 169 Pac., 377;

Dougherty vs. Cal. Kettleman, 9 Cal. (2d) 58, 69 Pac. (2d) 155.

Petitioner argues, however, that, notwithstanding these facts, the petitioner bankrupt still had the right of redemption from certain State and County tax liens which existed against these properties at the time of the transfer of the title to the Utility District by the County Treasurer, and that such right of redemption, under the State and County tax law, was a property right within the meaning of the bankruptcy laws (petitioner's brief, page 11).

It is then argued that, as there existed State and County tax liens at the time of the Irrigation District delinquency tax sales, the issuance of the Treasurer's deed to the Utility District did not wipe out or merge into the Treasurer's deed such State and County tax liens. And, as these State and County tax liens had not been destroyed or wiped out by the Irrigation sale to the Utility District, the right of redemption given by the State law for the redemption from State and County delinquent tax sales still was vested and remained in the petitioner, and she still had this right of redemption as a property right on the date she filed her application in bankruptcy.

The principal case relied upon by petitioner to establish this conclusion is the case of *La Mesa Irrigation District vs. Hornbeck*, 216 Cal. 730 at pages 735 and 738. This case does hold that tax liens of Irrigation Districts are not prior liens to the extent that a sale made to the Irrigation District after the right of redemption had expired would not vest in the purchaser a title free from the State and County tax liens, and that the liens of taxing agencies, such as Irrigation Districts and Reclamation Districts, were on a parity with the liens for State and County taxes.

We do not quarrel with this decision, although it has been criticized repeatedly by subsequent decisions of the State Supreme Court to the extent that it may now be said to be overruled. See

Provident Land Corporation vs. Zumwalt, 12 Cal. (2d) 365;

El Camino Irrigation District vs. El Camino Land Corporation, 12 (2d) 378;

Clough vs. Compton Irrigation District, 12 Cal. (2d) 385;

Moody vs. Provident Irrigation District, 12 Cal. (2d) 389;

Anderson Cottonwood Irrigation District vs. Klukkert, 13 Cal. (2d) 191.

We believe the question of priority of tax liens or parity of tax liens does not exist in this case at all. We contend that the Treasurer's deeds of November 9, 1939 passed to the Utility District all of the interest formerly held by the debtor petitioner in such lands, and that the right of redemption, formerly vested in such petitioner, was transferred by said Treasurer's deed to the Utility District, so that the Utility District now has the right to redeem from such State and County tax sales.

We do not claim that the Treasurer's deeds wiped out these State and County tax liens, and are free to concede that the Treasurer's deed passed all of the title formerly had by the petitioner in these lands to the Utility District, subject to the existing State and County tax liens.

The California Irrigation District tax law, in Section 47, provides that, if the property of a delinquent Irrigation District taxpayer is not redeemed within three years, then a deed may be issued to the holder of the tax certificate of sale. If, however, the three year period of redemption has expired, and during such three year period the Irrigation District has been dissolved, then both the redemption of the property and the issuance of the deed, in the event of the failure to redeem, is governed by the provisions of Section

47½ of said Act. (Appendix Page 10.) A deed issued under either Section 47 or 47½ of such Irrigation District law has the effect of forever cutting off the former owner, both as to his right of redemption and any interest which he formerly had in the property. See

Quinn vs. Kenney, 47 Cal., 147;

Fox vs. Wright, 152 Cal., 59;

Chapman vs. Zobelein, 19 Cal. App., 132;

Schamblin vs. Means, 6 Cal. App., 261;

Adams vs. Slee, 92 Cal. App., 708;

Provident Land Corporation vs. Zumwalt, 12 Cal. (2d) 365.

The *Chapman vs. Zobelein* case, above cited, was taken to the Supreme Court of the United States where it is reported in 237 U. S., 135; 59 Lawyers Edition, 874.

The State and County tax liens, which are mentioned by the petitioner in this case (page 9, petitioner's brief), existed at the time of the original issuance of the tax certificate of sale (R., 171). The record will show that this was as early as 1931. At that time the right of redemption given by the State law for State and County taxes was governed by Section 3780 of the Political Code of California which then read:

> "A redemption of the property sold may be made by the owner or any party in interest within five years from the date of the sale to the state, or at any time prior to the entry and sale of said land by the state, in the manner provided by Section 3817."

Section 3817 then read:

> "In all cases where real estate has been sold or may hereafter be sold for delinquent taxes to the state, and the state has not disposed of the same, the person whose estate has been, or may hereafter be sold, his heirs, executors, administrators or other successors in interest, shall, at any time after the same has been sold to the state, and before the state shall have disposed of the same, have the right to redeem such real estate by paying to the County Treasurer of the County wherein the real estate may be situated the amount of taxes, penalties and costs due thereon at the time of said sale * * *"

It is clear from a perusal of these two Sections of the Political Code that the right of redemption authorized by the State law is now vested, or was on November 9, 1939 vested, in the respondent Utility District, and not in the petitioner. The right of redemption then authorized by the State law of California did not give to the petitioner any property interest in this property on the date she went into bankruptcy, to-wit, March 20, 1940.

2. The decision of the Circuit Court of Appeals that the Utility District became the absolute owner of the property is justified by the California decisions hereinabove cited as to the effect of the delivery of a deed after the right of redemption has expired.

Quinn vs. Kenney, 47 Cal., 147;

Fox vs. Wright, 152 Cal., 59;

Provident Land Corporation vs. Zumwalt, 12 Cal. (2d) 365;

Chapman vs. Zobelein, 19 Cal. App., 132;

Schamblin vs. Means, 6 Cal. App., 261;
Laist vs. Nichols, 139 Cal. App., 202.

Examination of these authorities will show that the Circuit Court of Appeals of the Ninth Circuit was correct in its decision that on November 9, 1939 the Fallbrook Public Utility District became the absolute owner of the property, and there are no decisions that we have been able to find that hold otherwise.

3. There is no necessity for the Supreme Court of the United States to pass upon the question of whether or not the right of redemption given to the owner of land by the tax laws of the State of California is, or is not, a valuable property right protected by the bankruptcy laws of the United States. We concede that the right of redemption under the California tax laws is a valuable property right, and we also concede that such property right may be administered by the bankruptcy court in bankruptcy proceedings. We do, however, insist that the petitioner herein had no property right consisting of a right to redeem from any tax liens for either Irrigation District taxes or State and County taxes at the time that she filed her application in bankruptcy.

4. The petitioner's fourth point or reason urged as to why a writ of certiorari should issue in this case is:

> "The lower court should have referred the question of tax title ownership to the State Court for decision. It should not have dismissed the proceedings as to the property involved."

We do not agree with this contention at all. In our opinion

the bankruptcy laws of the United States vest in the bankruptcy court exclusive jurisdiction to determine every question which might relate to the administration of the affairs and properties of a bankrupt, including the jurisdiction to try title to property.

11 U. S. Code Ann., Section 11, Subdivision 6;

Pepper vs. Litton, 308 U. S., 295; 84 Lawyers Edition 281.

5. The petitioner makes the point that the entire question of title to this land should have been referred by the Bankruptcy Court to the State Court for decision and that, if such reference had been made, the petitioner would have, and will, present to such State Court three defenses, which would consist of the contention that the original Irrigation District levies were fraudulent, improper and illegal; that the sale of such property for such alleged illegal assessments was a shock to the conscience of the Court, and that the letter of the Secretary of the Fallbrook Public Utility District referred to as Exhibit "E" (R., 77) was a grant of an extension of time within which to pay such delinquent Irrigation District tax assessments. We answer this by pointing out:

First. That each of these defenses was urged and presented to the United States District Court and reviewed by the Circuit Court of Appeals. The United States District Court, which had authority to pass upon the sufficiency of the evidence to sustain the findings of the Conciliation Commissioner, refused to approve a finding that might have indicated a question of illegality in the levying of the original Irrigation District assessments. Accordingly, no such

finding was presented for consideration to the Circuit Court of Appeals. The United States District Court's findings of fact are conclusive (Sec. 67, Title 11 U. S. Code Ann.). There was no charge of fraud and no evidence of fraud in the record.

However, the contention was made that, because the District paid a cash consideration of but $1,463.00 for all of the property of the dissolved Irrigation District, it should not be allowed to redeem petitioner's property, which was appraised at $12,500.00 and that it was shocking to the conscience that the petitioner should be deprived of her property, worth $12,500.00, for the nonpayment of a tax lien which amounted originally to the sum of $1,472.00.

The question of consideration paid by the Utility District under the dissolution proceeding was of no legal interest to the petitioner because at that time she still had the right to redeem her property under the Irrigation District tax law by simply paying the taxes due. This she failed to do.

Second. Besides, the record shows (R., 99, Petitioner's Exhibit "2") that in a proceeding directly authorized by the Statutes of California (Dissolution of Irrigation Districts, California Statutes 1903, page 3, Appendix Page 5), which was contested, and at which petitioner had an opportunity to be heard after notice, the Superior Court of the County of San Diego passed upon the validity of the tax proceedings leading up to the issuance of the certificate of sale and determined that all of such tax proceedings were valid. We contend that this judgment is conclusive on the petitioner and the world, and that she should

not now be allowed to be heard on that question in any Court.

Happy Valley Water Company vs. Thornton, 1 Cal. (2d) 365;

Price vs. Sixth District Agricultural Assn., 201 Cal. 502;

Sacramento M. U. District vs. All Parties etc., 6 Cal. (2d) 197;

Barrow vs. Santa Monica Supply Company, 9 Cal. (2d) 601.

Third. In addition to that the California Irrigation District Statute (California Statutes 1897, page 254, as amended to date; Appendix Page 8), in Section 68, 69, 71 and 72, provides a statute of limitation of six months within which any taxpayer of an Irrigation District may contest the legality of any tax assessment levied by a Board of Directors, and the Supreme Court of the State of California, in the case of *Miller & Lux, Inc. vs. Secara*, 193 Cal., 755, has held that such statute is constitutional and valid.

The remedy of a taxpayer of an irrigation district for relief from undue burdens imposed by assessments levied by boards of directors of irrigation districts, says the Supreme Court of California in the case of *Wores vs. Imperial Irrigation District* (1924, 193 Cal., 609, on page 632) is that he effect a change in the directory of the district by the means provided in the California Irrigation District Act relative to the selection of those who are from time to time entrusted with the conduct of the affairs of the district.

Fourth. The argument that the Utility District should not be allowed to retain this land as a result of the foreclosure of an irrigation tax lien in the sum of $1,472.00 when the value of the property itself is some $12,500.00, raises a question which has been presented to the Supreme Court of the United States in the case of *Chapman vs. Zobelein* above cited (237 U. S., 135; 59 Lawyers Edition, 874). On page 877 of the Lawyers Edition the Supreme Court said:

> "The plaintiff relies upon *Slater vs. Maxwell*, 6 Wall. 268, 18 L. Ed. 796, and other like cases, in which sales under an excessive levy were held to be void. But those decisions are not applicable here, not only because an issue as to the invalidity of a levy merely because excessive does not raise a Federal question, but because the statute here, by giving a five-year period of redemption, was intended in part to afford the taxpayer an opportunity to protect himself against the sale of valuable property, for an insignificant sum. The statute, in providing that the state should buy in the property and hold it subject to redemption for five years, intended to furnish relief to those who, for want of ability to pay, or for want of notice of the levy, might otherwise be deprived of their property by an ordinary tax sale. Whatever the character of the title which the state acquired at the first sale whether legal or equitable —it was in any event defeasible by redemption within five years."

CONCLUSION

The Fallbrook Public Utility District, respondent herein, believes that the foregoing reasons are sufficient to show that this is not a case in which the Supreme Court of the United States should authorize the issuance of a writ of

certiorari. We, therefore, respectfully request that the petition for such writ be denied.

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